

IN RE: PETITION FOR ZONING VARIANCE
204' S of S/S Valley Heights Dr.,
1584 1/2 SE of Park Heights Drive
(11110 Valley Heights Drive)
3rd Election District
3rd Councilmanic District
Marc A. Appel, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-368-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit rear yard setbacks of 39 feet and 31 feet in lieu of the required 50 feet and 37.5 feet, respectively, for a proposed addition and existing open projection (deck), in accordance with Petitioner's Exhibit 1.

The Petitioners appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 11110 Valley Heights Drive, consists of 1.10 acres zoned R.C. 5, and is improved with a single family dwelling which has been the Petitioners' residence since 1981. Petitioners propose constructing a sunroom addition on the rear of the home and attaching an existing open deck to the proposed addition. Due to the layout of the existing dwelling, the requested variances are necessary in order to place the proposed addition in the most appropriate location and be compatible with the surrounding homes in the development. Petitioners testified that to the rear of the property is a heavily wooded area with the closest building approximately one-half mile away. Testimony indicated that there would be no detriment to the health, safety or general welfare of the community if the requested variances are granted. Mr. Appel further testified that he has spoken with adjoining neighbors who have indicated they have no objection to their plans.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variances requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 16th day of March, 1989 that the Petition for Zoning Variance to permit a rear yard setbacks of 39 feet and 31 feet in lieu of the required 50 feet and 37.5 feet, respectively, for a proposed addition and existing open projection (deck), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions, which are conditions precedent to the relief granted:

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1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

AMN:bjs

A. M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(410) 857-3333
J. Robert Haines
Zoning Commissioner

March 16, 1989

Mr. & Mrs. Marc Appel
11110 Valley Heights Drive
Owings Mills, Maryland 21117

RE: PETITION FOR ZONING VARIANCE
204' S of the S/S Valley Heights Drive,
1584 1/2 SE of Park Heights Drive
(11110 Valley Heights Drive)
3rd Election District - 3rd Councilmanic District
Marc A. Appel, et ux - Petitioners
Case No. 89-368-A

Dear Mr. & Mrs. Appel:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Mr. Charlotte Radcliffe at 494-3391.

Very truly yours,

A. M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: People's Counsel

File

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property "located in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 4404.3.B.3 (4406.3.B.3) (Policy Manual 5-4); 301.7

To allow a rear yard setback of 39 ft. for an addition and 31 ft. for an open projection (deck) in lieu of the required 50 ft. and 37.5 ft., respectively

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

We desire to build a sun room addition to the back of our home. It would create a hardship and be cosmetically unattractive for it to be built in any other area of our home. Our lot backs up into a wooded area and would cause no infringement upon the view of any of our neighbors. We would also be extending our deck.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
Address
City and State
Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City and State
Attorney's Telephone No.:
Address
Phone No.

Legal Owner(s):
HARC A. APPEL
(Type or Print Name)
Signature
SANDRA B. APPEL
(Type or Print Name)
Signature
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State
Name
Address
Phone No.

MAP 11110
E.D. 35
DATE 2-22-89
200
1000
DP

ORDERED By The Zoning Commissioner of Baltimore County, this 25th day

of March, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, the property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 15th day of March, 1989, at 10 o'clock A.M.

J. Robert Haines
J. Robert Haines
Zoning Commissioner of Baltimore County
(over)

ZONING DESCRIPTION

BEING known and designated as Lot No. 6, Plat 1, Valley Heights, recorded among the Land Records of Baltimore County in Plat Book E.H.K., Jr. 48, folio 34. The improvements thereon being known as 11118 Valley Heights Drive.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 3rd
Posted for: Variance
Petitioner: Marc A. Appel, et ux
Location of property: 204' end of road south of S/S of Valley Heights Drive at a point 1584 1/2 SE of Park Heights Dr.
Location of Sign: 1 sign in front of subject property and 1 sign south side of Valley Heights Drive at entrance to subject property
Remarks: 1 sign in front of subject property and 1 sign south side of Valley Heights Drive at entrance to subject property
Posted by: J. Robert Haines
Number of Signs: 2
Date of return: 3-3-89

CERTIFICATE OF PUBLICATION

TOWSON, MD. Feb. 23, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in the OWINGS MILLS TIMES, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Feb. 23, 1989.

OWINGS MILLS TIMES,

S. Zabe Olson
Publisher

PO 09825
reg M25283
price \$78.60

CERTIFICATE OF PUBLICATION

TOWSON, MD. Feb. 23, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Feb. 23, 1989.

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